

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Auction of Advanced Wireless Services)	AU Docket No. 06-30
Licenses Scheduled for June 29, 2006)	
(Auction No. 66))

REPLY COMMENTS OF LEAP WIRELESS INTERNATIONAL, INC.

Leap Wireless International, Inc., and its subsidiaries (collectively, “Leap”) hereby submit these reply comments in the above-captioned proceeding.

There is near-universal support in the record for the Commission’s tentative conclusion to conduct a single simultaneous multiple round (“SMR”) auction for AWS licenses.¹ While package bidding may eventually provide benefits in certain competitive bidding scenarios, this is not the time for the Commission to risk chilling investment and vigorous participation in an auction of such scale, scope and potential importance in the U.S. commercial mobile wireless industry’s implementation of advanced wireless services,

¹ The lone proponent of package bidding is Verizon Wireless, which proposes a separate SMR-PB auction for the E/F Block REAG licenses. *See* Comments of Verizon Wireless (Feb. 14, 2006), at 2-5. Because package bidding is generally thought to favor large bidders, the reason for Verizon’s support of this methodology is obvious. But as Leap observed in its initial comments, the threshold creation of REAG licenses undercuts many of the perceived benefits of a package bidding format by reducing the exposure problem. Leap believes that the Commission should heed the record consensus and experiment with package bidding in a future auction where the stakes are less and the band plan is more conducive to such an experiment.

Similarly, the wireless operator and investment communities also agree overwhelmingly that the Commission should continue to promote transparency in the SMR auction rather than limiting the disclosure of bidder identities and other important information. There is little evidence to date that transparency, which has long been a hallmark of the SMR auction, has done anything but serve the public well. Moreover, the record demonstrates that blind bidding would disadvantage smaller, regional and rural carriers;² large operators;³ chill investment;⁴ reduce market efficiency and undermine public confidence in the FCC's auction process.⁵

Leap is particularly concerned that blind bidding will increase the risk and uncertainty for smaller and regional carriers. One of the main determinants of the value of spectrum is the availability and cost of equipment, especially terminals or

² *See, e.g.*, Comments of the Rural Telecommunications Group, Inc. (Feb. 14, 2006), at 2-6.

³ *See, e.g.*, Comments of Alltel Corporation (Feb. 14, 2006), at 2 (Commission's policy of disclosure has served the public interest well); Comments of Cingular Wireless LLC (Feb. 14, 2006), at 5-10 (noting that Bureau cites no specific evidence that the disclosure of bidder information caused actual collusive behavior in past auctions, and that in an auction "with high stakes and little transparency, withholding bidder information will no doubt increase uncertainty for bidders, thereby increasing perceived risk and reducing the desire to bid aggressively"); Comments of T-Mobile USA, Inc. (Feb. 14, 2006), at 5-8 (observing that "the circumstances of the AWS auction simply do not justify departure from tried-and-true practices, and the risks of experimentation in the context of such a significant, complex auction are too high").

⁴ *See, e.g.*, Joint Comments of Columbia Capital LLC and MC Venture Partners (Feb. 14, 2006), at 5-8 (strongly opposing blind bidding proposal on the basis of its chilling effect on financial investors and bidders' access to follow-on capital).

⁵ *See, e.g.*, Comments of Reuters America, LLC (Feb. 14, 2006) (observing that "the marketplace has come to depend on the flow of public information that has characterized FCC license auctions for the past decade").

handsets. Indeed, the handset and chipset vendors have indicated to Leap that their plans for developing equipment for the AWS bands are largely dependent on obtaining commitment for testing and deployment in enough markets.

Leap, other regional carriers, and small carriers will benefit from knowing the bidding activity of the large, national carriers. If, for instance, one or both national GSM/WCDMA carriers are bidding, then regional bidders who use GSM/WCDMA technology will have more confidence about the availability of handsets and terminals for that technology—assuming they know the bidding activity of the other bidders. Similarly, when a regional CDMA operator is aware of the bidding activity of other CDMA operators, it will be able to adjust its business case to reflect how the activity is likely to affect handset and terminal availability. For the case in which only the nationwide GSM/WCDMA operators are active, and the nationwide CDMA carriers are not, the smaller and regional CDMA carriers will want to be much more conservative. Conversely, if nationwide CDMA and GSM/WCDMA operators are both active in the auction, then everyone can be more confident about the availability of handsets and terminals. In sum, Leap believes that the assumption that the importance of coordinating technology choices has dwindled with respect to this auction⁶ is flatly incorrect.

Blind bidding also would expose regional carriers to risks that they never would be forced to undertake in the aftermarket by requiring the investment of millions of dollars to purchase spectrum licenses without fully understanding the

⁶ See Comments of Paul Milgrom and Gregory Rosston at 3; *Auction No. 66 Procedures Notice* at 7.

universe of other competitors in the geographic market. Here, the Commission must look beyond theoretical auction improvements to the ultimate policy goal of deploying radio spectrum successfully, *i.e.*, in a fashion that promotes service to the public. Due to large sunk costs, the market in each region plainly cannot accommodate an unlimited number of entrants. When bidding identities are not revealed, a bidder does not know whether it will be the only new entrant in a market, and indeed, faces a peculiar type of “winner’s curse” in being able to understand the competitive consequence of being named a winning bidder only *after* the auction has closed. Such uncertainty – which ordinarily is minimized in the commercial marketplace through adequate due diligence -- can undermine financing for entrants and is likely to reduce auction participation and/or the value of the bids that participants are willing to make.

Leap again strongly urges the Bureau to reject blind bidding for the AWS auction. The need to add further impediments to bidder coordination is overstated, given the protective mechanics that are built into the SMR process, while the costs of implementing blind bidding for an auction of this importance are potentially very significant. As auction theorist Professor Peter Crampton has observed:

[G]iven the protections the FCC has already implemented – the elimination of bid signaling and the limits on the use of withdrawals – I believe the FCC should favor full transparency in the AWS auction, which promises to be a competitive auction. In the biggest auction in a decade,

attempting to conceal this information is risky and could lead to problems.⁷

Leap wholeheartedly agrees.

For the reasons set forth by Leap and many others, the Commission should conduct a single, open and transparent SMR auction for AWS licenses.

Respectfully submitted,

/s/

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⁷ Declaration of Peter Crampton (Feb. 14, 2006), at 5, *attached to* Comments of T-Mobile USA, Inc. (Feb. 14, 2006).